

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
October 16, 2006**

Members Present:

Michael Gallagher
Paul Klein
Laura Lizcano
Maria Cruz
Jesse Jenkins
Mimi Moffat
Michael Dean
Rollette Schreckenghost
Gene Camargo
Mary Rogers
Ramon Flores

Staff:

Fernando De Leon, P.E., Asst. Dir.
Ted Murphree, Asst. City Attorney
Christopher Looney, Planning Manager
David Arciniega, Planner II
Michael Taylor, Planner II
Antoinette Villarreal
Joe Mendoza
Agdel Herrera

Call to Order

Pledge of Allegiance to the U.S. and Texas Flags.

Mr. Gallagher, Chairman, called the meeting to order and called roll of the applicants for each case.

CASE NO. A-06-100PP

Applicant – Roy and Diana Reina
P-23, NCB 17973
7525 Eckhert Road
Zoned: “C-2” Commercial District

The applicant is requesting 1) a 28-foot variance from the minimum 30-foot rear setback required in “C-2” zoning districts when abutting residential uses or residential zoning districts, in order to build a structure 2 feet from the rear property line, and 2) an 8-foot variance from the minimum 10-foot side setback required in “C-2” zoning districts when abutting residential uses or residential zoning districts, in order to build the same structure 2 feet from the side property line.

David Arciniega, Planner II, presented background and staff’s recommendation of denial of the request side setback variance.

Gabriel Velazquez, representative, stated they are proposing a 28-foot variance from the minimum 30-foot rear setback and an 8-foot variance from the minimum 10-foot side setback.

The following citizen(s) appeared to speak:

Roy Reina, citizen, spoke in favor.

Michele Debs, citizen, spoke in favor.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-06-100PP closed.

MOTION

A motion was made by **Mr. Camargo**. I would move that in Board of Adjustment Case No. **A-06-100PP**, that the Board of Adjustment members grant this variance on property that is known as **7525 Eckert Road**, also legally described as **P-23, NCB 17973**, the property in question lies in an area that is rapidly growing. Such variance will not be against the public interest in that **only the property owner to the north which abuts the rear property line opposes this request**. Secondly the variance will not authorize the operation of a use other than those that are specifically allowed in the district **although the development will be contrary to the City's Development Code**. Such variance will not substantially or permanently injure the district in which the variance is sought in that **once granted we will establish a pattern of development for this portion of Eckert**. Such variance will be in harmony with the spirit and purpose of this chapter in that **even though there is sufficient area for development on this property without a variance, it appears that the applicants through whatever planning advice might have been given to them has suggested that the property be developed in this manner**. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property and the unique circumstances were not created by the owner of the property and are not merely financial, but are not due to or the result of the general conditions of the property **it has been pointed out to this board that there are drainage problems and topographical problems on this property that would prevent development on other portions of the property that would not necessitate a variance from the development regulations**. That in my mind is certainly questionable and that I have felt that I did not get any satisfactory responses and for that reason I feel that the plight of the owner is not merely financial. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **the variance will not weaken the intent of the Unified Development Regulations**. The variance will not adversely affect the public health, safety or welfare of the public in that **the structure will be constructed in accordance with the Development Codes and Inspections made to ensure that the structure is constructed according to code**. The motion seconded by Ms. Moffat.

Mr. Camargo stated this includes both variances.

AYES: Moffat, Jenkins, Cruz, Gallagher

NAY: Camargo, Flores, Rogers, Schreckenghost, Lizcano, Klein

THE VARIANCE WAS DENIED.

CASE NO. A-06-094

Applicant – KIPP Aspire Academy

Lots 1 through 8, the south irregular 96 feet of Lot 9, the south 61 feet of lots 10 and 11, and P-100, NCB 1995

735 Fredericksburg Road

Zoned: “C-3NA NCD-5” General Commercial District Non Alcoholic Sales Neighborhood Conservation District and “R-6 NCD-5” Residential Single-Family Neighborhood Conservation District

The applicant is requesting a 3-foot variance from the Unified Development Code requirement that fence within in the front yard of properties within the Beacon Hill Area Neighborhood Association Conservation Overlay District shall not exceed a height of 3 feet, in order to replace a recently removed 6-foot tall chain link fence with a 6-foot tall wrought iron fence.

Michael Taylor, Planner II, presented background and staff’s recommendation of denial of this variance.

Mark Larson, representative, stated they operate a public school and the purpose of this request if for safety reasons for the children.

The following citizen(s) appeared to speak:

Jessica Fuente, representing Beacon Hill Area Neighborhood Association, stated they have met with the applicant and are in support of this request.

Roy Soto, citizen, spoke in favor.

Gordan Sanford, citizen, spoke in favor.

Rolando Briseño, citizen, spoke in favor.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-06-094 closed.

MOTION

A motion was made by **Mr. Jenkins**, in reference to Case A-06-094, KIPP Aspire Academy at St. Anna’s Catholic Church, request a **3-foot variance from the requirement that fences within the front yard of properties within the Beacon Hill Area Conservation Overlay District shall not exceed a height of 3 feet, in order to replace a recently removed 6-foot tall chain link fence with 6-foot wrought iron fence and gates.** I move that the Board of Adjustment in regarding to subject case approve this move. Such variance will not be contrary to the public policy in that **it will not alter the area.** Such variance will not authorize the

operation or use other than those uses specifically authorized for the district in which the property for which the variance is sought is looked in that **the area is zoned properly**. Such variance will not substantially or permanently injure the district in which that variance is sought in that **it will not have a negative impact upon the area**. Such variance will not alter the essential character of the district in which the variance is sought in that **structure is keeping with the area and is replacing a pre-existing 6 foot fence as well**. Such variance will be in harmony with the spirit and purpose of this chapter in that **it will maintain the character of the area**. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of the general conditions in the district in which the property is located in that **it will enhance the community**. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **it will not weaken them**. The variance will not adversely affect the public health, safety or welfare of the district in that **it will not create a safety and traffic hazard**. The motion seconded by Ms. Moffat.

AYES: Jenkins, Moffat, Lizcano, Cruz, Schreckenghost, Camargo, Rogers, Flores, Klein, Gallagher

NAY: None

THE VARIANCE WAS GRANTED.

Board Members took a 5 minute recess.

CASE NO. A-06-102

Applicant – Zanaida Bernal
Lot 19, Block 18, NCB 8969
1108 Stonewall Avenue
Zoned: “R-4” Residential Single-Family District

The applicant is requesting a 4-foot variance from the minimum 5-foot side setback required in “R-4” zoning districts, in order to keep an existing structure 1 foot from the west side property line.

Michael Taylor, Planner II, presented background and staff’s recommendation of denial.

Mr. Montemayor, representative, stated his clients did not know they had to comply with the ordinance. He also stated that most carports in the neighborhood are the same.

No citizens to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-06-102 closed.

MOTION

A motion was made by **Ms. Lizcano**. In Appeal Case No. **A-06-102**, address being **1108 Stonewall Avenue**. I move that the Board of Adjustment grant the applicants request because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Such variance will not be contrary to the public interest in that **it will not alter the overall appearance or the character of the neighborhood since there are other carports on that particular street**. Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **the area is zoned "R-4" Residential Single-Family District**. Such variance will substantially or permanently injure the district in which that variance is sought in that **the variance will not have a negative impact on the neighborhood due to the other carports**. Such variance will not alter the essential character of the districts in which the variance is sought in that **the proposed structure is in keeping with the surrounding area**. Such variance will be in harmony with the spirit and purpose of this chapter in that **the proposed structure will maintain the quality of the surrounding area in that particular address**. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property and the unique circumstances were not created by the owner of the property, and not merely financial, and are not due to or the result of the general conditions in the district in which the property is located in that **it will enhance the overall community**. The variance will not substantially weaken the general purposes of this chapter or regulations herein established for the specified district in that **the proposed variance will not weaken the overall zoning of that particular lot**. The variance will not adversely affect the public health, safety or welfare of the public in that **the structure will not create a safety or traffic hazard**. The motion seconded by **Mr. Camargo**.

AYES: None

NAY: Lizcano, Camargo, Shreckenghost, Rogers, Flores, Cruz, Jenkins, Moffat, Klein, Gallagher

THE VARIANCE WAS NOT GRANTED.

CASE NO. A-06-103

Applicant – Christine C. Padilla
Lot 9, Block 36, NCB 17780
5574 Kissing Oak
Zoned: "R-4" Residential Single-Family District

The applicant is requesting a 14-foot variance from the minimum 20-foot front setback required for front entry carports, in order to keep an existing carport 6 feet from the back of a sidewalk.

David Arciniega, Planner II, presented background and staff recommends denial.

Christine C. Padilla, applicant, stated she requesting this variance because she wants covered parking for her cars. She also stated that the homeowner's association had no restrictions for the carport and they informed that she needed to check with the city and code compliance to get building permits. She further stated she went out of town and when she returned the carport was built.

The following citizen(s) appeared to speak:

John Williams, citizen, spoke in favor.

Dolores Haugem, citizen, spoke in favor.

Sheryl Haggonson, citizen, spoke in favor.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-06-103 closed.

MOTION

A motion was made by **Ms. Lizcano**. In Appeal Case No. **A-06-103** located at **5574 Kissing Oak**. I move that the Board of Adjustment grant the applicants request because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Such variance will not be contrary to the public interest in that **it will offer an area of protection from bad weather and provide off-street parking**. Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **the area is zoned "R-4" and the house is a on zero lot line**. Such variance will substantially or permanently injure the district in which that variance is sought in that **the variance will not have a negative impact on the neighborhood due to the fact that it is located away from a corner intersection**. Such variance will not alter the essential character of the districts in which the variance is sought in that **the new building will enhance the structure on this premises**. Such variance will be in harmony with the spirit and purpose of this chapter in that **the structure is cosmetically finished to blend with the property**. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property and the unique circumstances were not created by the owner of the property, and not merely financial, and are not due to or the result of the general conditions in the district in which the property is located in that **it will enhance the protection for their vehicles**. The variance will not substantially weaken the general purposes of this chapter or regulations herein established for the specified district in that **the proposed variance will not weaken the overall zoning plan of the area as it will remain as residential use**. The variance will not adversely affect the public health, safety or welfare of the public in that **the structure will not in any way create or cause any adverse affect to the public due to another carport on the property behind this property**. The motion was seconded by **Mr. Jenkins**.

AYES: Jenkins, Cruz

NAY: Lizcano, Moffat, Flores, Rogers, Camargo, Shreckenghost, Klein, Gallagher

THE VARIANCE WAS NOT GRANTED.

CASE NO. A-06-104

Applicant – Marvin Jones

Lot 22, P-101, P-102 and P-103, NCB 65

4100 North New Braunfels Avenue

Zoned: "R-4" Residential Single-Family District and "MF-33 S" Multi-Family District with a Specific Use Authorization to allow a country club

The applicant is requesting a 2-foot variance from the requirement that predominantly open fences in front yards be no taller than 4 feet, in order to erect a 6-foot tall chain-link fence in the front yard.

David Arciniega, Planner II, presented background and staff recommends denial.

Marvin Jones, applicant, stated he is requesting this variance because there has been vandalism on the golf course. He is also stated the fence will not be seen because it will be placed behind the hedges.

No citizens to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-06-104 closed.

MOTION

A motion was made by **Mr. Rogers**. I move that the Board of Adjustment in regards to Appeal No. **A-06-104** application for a 2-foot variance from the requirement that predominantly open fences in front yards be no taller than 4 feet, in order to erect a 6-foot tall chain-link green vinyl fence in the front yard on subject property more fully described as **Lot 22, P-101, P-102 and P-103, NCB 65**, located at **4100 North New Braunfels Avenue** grant the applicants request because the testimony presented to us, and the facts that we have here determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. **At this point I would insert that the fence be located behind the shrubs.** Such variance will not be contrary to the public interest in that **it will not alter the overall appearance or character of the area as it now exists. It will not adversely affect the overall area and no opposition exists.** Such variance will not substantially or permanently injure the district in which that is sought in that **the variance will not have a negative impact on the neighborhood or the surrounding area.** Such variance will not alter the essential character of the districts in which the variance is sought in that **the proposed fence will not detract from the surrounding area and that it will be located behind the shrubs.** The new fence will enhance the area and maintain security for

the golf course and the club. Such variance will be in harmony with the spirit and purpose of this chapter in that **the proposed fence will maintain the quality of the surrounding area.** The variance will not substantially weaker the general purposes of this chapter or the regulations herein established for the specified district in that **the proposed variance will not weaken the overall zoning plan of the area.** The variance will not adversely affect the public health, safety or welfare in that **the proposed fence will not in any way create or cause adverse affect to the public and the fence will not create a safety or traffic hazard.** The motion was seconded by Mr. Flores.

AYES: Rogers, Flores, Moffat, Jenkins, Cruz, Lizcano, Shreckenghost, Camargo, Klein, Gallagher

NAY: None

THE VARIANCE WAS GRANTED.

CASE NO. A-06-105

Applicant – John R. Joseph

Lot 26, the east 21.5 feet of Lot 25 and the west 7 feet of Lot 27, Block 7, NCB 6785

452 Natalen Avenue

Zoned: "MF-33" Multi-Family District

The applicant is requesting a Special Exception to relocate a residential structure from 2118 East Hildebrand Avenue to 452 Natalen Avenue.

David Arciniega, Planner II, presented background and staff recommends approval.

John Joseph, applicant, stated he is requesting this Special Exception because he sold the property to Koontz McCombs and they want to demolish the house. He also stated the house is in very good condition and he has found a vacant lot to put the structure on.

No citizens to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-06-105 closed.

MOTION

A motion was made by **Mr. Camargo**. I would move that the Board of Adjustment in regards to Appeal Case No. **A-08-105** which is application for Special Exception to move a residence from **2118 East Hildebrand to 452 Natalen Avenue**, be approved by this Board of Adjustment. The special exception will be in harmony with the spirit and purpose of the chapter in that **it will be right infilled development within this area.** The public welfare and convenience will be substantially served in that **it will contribute to the overall development of this area.** The neighboring property will not be substantially injured by such proposed use in that **the design and age of the structure to be moved is in keeping with a large portion of the surrounding**

development. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought in that **the proposed structure will be compatible to the surrounding area.** The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the exception will promote a good land use in this residential area.** The motion was seconded by Mr. Flores.

AYES: Camargo, Flores, Shreckenghost, Rogers, Moffat, Jenkins, Cruz, Lizcano, Klein, Gallagher

NAY: None

THE VARIANCE WAS GRANTED.

CASE NO. A-06-106

Applicant – Victor M. and Elba Rico
Lots 96, 97 and 98, Block 11, NCB 8321
315 Coyol Street
Zoned: “R-5” Residential Single-Family District

The applicant is requesting a Special Exception, as required in the Unified Development Code, to relocate a residential structure from 2432 South Loop 410 West to 315 Coyol Street.

David Arciniega, Planner II, presented background and staff recommends approval.

Edgar Dodson, representative, stated he is requesting this Special Exception because the owner has a vacant lot to put the structure on. He further stated the owner has plans to restore the structure.

No citizens to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-06-106 closed.

MOTION

A motion was made by **Mr. Flores.** I move that the Board of Adjustment in regards to Appeal No. **A-06-106** application for a Special Exception as required in the UDC **to relocate a residential structure from 2432 South Loop 410 West to 315 Coyol Street** grant the request of the applicant pursuant as a Special Exception contained the UDC because the testimony presented to us and the facts that we have determined show that this Special Exception will not adversely affect the neighboring property. The exception will be in harmony with the spirit and purpose of the chapter in that **it provides quality infilled housing for the surrounding neighborhood.** The public welfare and convenience will be substantially served in that **it would put to good use a vacant lot in a neighborhood that seems to be in the process of being revitalized.** The neighboring property will not be substantially injured by such proposed use in

that the ecstatic of the house to be moved and the size and the appearance of it seem to be in keeping with the properties around it. The special exception will not alter the essential character of the district and location in which the property for which the specific use permit is sought in that as with other findings of fact we believe the character of the district will be enhanced as a result of a house being placed on an empty lot. The special exception will not weaken the general purpose of the district or the regulations herein established for the district in that this exception will promote and enhance the development of land in this area. The motion was seconded by Ms. Lizcano.

AYES: Flores, Lizcano, Rogers, Cruz, Camargo, Jenkins, Shreckenghost, Moffat, Klein, Gallagher

NAY: None

THE VARIANCE WAS GRANTED.

Staff Report

Chris Looney, Planning Manager, stated that the Planning Commission heard the proposed fence amendments to the Unified Development Code with respect to fence heights and residential front yards on September 27, 2006 and recommended approval of the special exception and denial of the overlay. He also stated Zoning Commission heard the same amendments in a public hearing on October 3, 2006 and recommended approval of the special exception and denial of the overlay. He further stated that he is in the process to of finding a date for City Council to hear the amendments. He is expecting the date to be in early or mid November.

There being no further discussion, meeting adjourned at 4:48 p.m.

APPROVED BY: 

D. Mike Villyard, Chairman

OR

Michael Gallagher, Vice-Chair

DATE: Dec 16, 2007

ATTESTED BY: 

Christopher J. Looney
Development Services, Planning Manager

DATE: 12-17-07